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REGIONAL MEETINGS

Note by the Secretariat

1. General Assembly resolution 46/116 of 17 December 1991 states that in accordance with the objectives and provisions of General Assembly resolution 45/155, regional meetings be convened for each region that so desires within the institutional framework or with the assistance of the regional commission and that these meetings be financed as part of the preparatory work for the World Conference. Pursuant thereto, a Regional Meeting for Latin America and the Caribbean was organized in San José, Costa Rica, from 18 to 22 January 1993.

2. In the same resolution, the General Assembly requests, inter alia, non-governmental organizations concerned with human rights to assist the Preparatory Committee and to undertake reviews and submit recommendations concerning the World Conference and its preparation to the Preparatory Committee through the Secretary-General and to participate actively in the World Conference.

GE.93-12337 (E)

3. The non-governmental organizations which were present in San José formed five working groups, and elaborated the recommendations and proposals annexed to this document (annex I). These contributions derive from items 7 to 11 of the agenda of the Regional Meeting for Latin America and the Caribbean which dealt with the following matters:

Item 7: Evaluation of the results achieved in the promotion and protection of all human rights and fundamental freedoms, with emphasis on the implementation of the relevant human rights standards and instruments and on the effectiveness of international and regional methods and procedures;

Item 8: Identification of obstacles to the full realization of all human rights;

Item 9: Consideration of the relationship between development, democracy and the universal enjoyment of all human rights, keeping in view the interdependence and indivisibility of economic, social, cultural, civil and political rights;

Item 10: Consideration, in conformity with the purposes and principles of the Charter of the United Nations, of contemporary trends in and new challenges to the full realization of all human rights, particularly those of persons belonging to vulnerable groups;

Item 11: Recommendations to ensure the effective enjoyment of all human rights and improve the coordination of the mechanisms of the United Nations and regional systems, as well as the relationship between them, as appropriate.

In addition, two groups of non-governmental organizations adopted a declaration on the status of women, and a declaration on indigenous peoples; these two texts are also annexed (annex II).

Annex I

RECOMMENDATIONS AND PROPOSALS SUBMITTED BY THE NON-GOVERNMENTAL ORGANIZATIONS PRESENT IN SAN JOSE

Introduction

We, the representatives of the non-governmental organizations assembled in San José, Costa Rica, for the Regional Meeting for Latin America and the Caribbean of the World Conference on Human Rights,

Assert the right of our peoples to the effective enjoyment of human, civil, political, economic, social and cultural rights and self-determination, as embodied in the Universal Declaration and other international instruments,

Reaffirm the principles of the universality, indivisibility and interdependence of all human rights,

Are convinced of the existence of an unconditional link between human rights, democracy and development,

Emphasize that the effective observance of human rights is possible only under democratic systems founded on social and economic justice, pluralism, respect for diversity and the elimination of all forms of subjugation and exploitation,

Note the current relevance of the Proclamation of Tehran adopted at the International Conference on Human Rights of 1968, which states: "The widening gap between the economically developed and developing countries impedes the realization of human rights in the international community ... [which] makes it all the more imperative for every nation [particularly the developed countries] to make the maximum possible effort to close this gap".

San José, Costa Rica, 22 January 1993

A. Agenda item 7 of the Regional Meeting for Latin America and the Caribbean

The following proposal was sponsored by the non-governmental organizations listed below:

Asociación de Familiares de Detenidos-Desaparecidos de Colombia (ASFADDES), Cemujer (Salvador), Colectivo de Abogados José Alvear Restrepo, Andean Commission of Jurists - Seccional Colombiana, Comisión para la Defensa de los Derechos Humanos en Centroamérica (CODEHUCA), Comité de Defensa de los Derechos del Pueblo (CODEPU, Chile), Comité Nacional Independiente Pro-Defensa de Presos, Perseguidos Desaparecidos y Exiliados Políticos de México, Federación de Mujeres Cubanas, Movimiento Manuela Ramos (Perú), Movimiento por la Identidad de las Mujeres Negras (República Dominicana), Mujeres por la Democracía (Paraguay), Unión de Juristas de Cuba, Abuelas Plaza de Mayo, CELS (Argentina), Familiares de

Detenidos y Desaparecidos, SERPAJ de América Latina, Madres de Plaza de Mayo (Línea Fundadora), Centro Luis Freire, Instituto Brasileiro de Analises Sociais e Económicas, Comisión Justicia y Paz de São Paulo.

Over the past 25 years, important advances have been made in legislation, in the form of new instruments, declarations and norms, some more advanced and binding than others. Also significant is the growing ethical, social and legal influence exerted by the presence, action and resolutions of the United Nations and its organs. In some cases, in fact, the reports of special rapporteurs and the consequential condemnatory resolutions have had much more than a moral value. This, of course, is a process which at times is not without far-reaching contradictions, as far as political or international power relationships are concerned.

Also noteworthy is the development of new international governmental or non-governmental organizations expressing concern over and exerting growing influence in human rights questions. Non-governmental organizations (NGOs), in particular, today play a decisive role in the system by working for the defence and promotion of human rights in their respective countries and as an irreplaceable source of information, without which the already precarious operation of the international human rights system would be seriously impaired. Accordingly, considerable importance should be attached to adopting the proposal submitted at this preparatory meeting by the delegation of Chile to appoint a United Nations special rapporteur to ensure that the rights of such organizations are safeguarded.

However, real guarantees of the observance of formally established rights are still highly inadequate or limited, to say the least.

Consequently, the failure of States to ratify some instruments, or the reservations to them which they enter, directly affect the consolidation of the rule of law so emphatically proclaimed, since the effective observance of human rights is one of its basic premises. States must allow the international community to effectively monitor compliance with treaties. The constitutions of some countries do not permit this, considering it as interference. In other cases, the application of international human rights law is officially accepted in the internal order, but in practice is neutralized by various factors, ranging from ignorance or lack of dissemination to resistance on the part of national authorities to the implementation of international norms and recommendations.

If the rule of law is to be respected and to be worthy of the name, at least some basic requirements must be met. For example, the conventional conception of the law as the expression of the general will should be reflected in electoral systems which do not distort the will of the people, in democracy as the source of all power and, in particular, in the combination of semi-direct and direct forms of representative democracy which involve increasing degrees of individual and collective participation.

Similarly, the principle of "legality" should mean, firstly, the submission of the State authorities, bodies and apparatus to the law and, secondly, the strengthening and broadening of mechanisms and procedures for

the collective control of those authorities and their acts (parliamentary, judicial, popular control, etc.), without there being, as is all too often the case, "special" areas subject to no control.

The paramount problem in this area is the use of force or institutionalized and formalized coercion as a basic dimension of modern law. Clearly, such a delicate instrument, by its very nature, must be subordinated to the sovereignty of the people. Unfortunately, in many countries, the doctrines and practices of the armed forces still depart from those principles, with tragic consequences for the peoples whom they are meant to serve or, in other cases, involve "safeguarding" limited or token democracies. The United Nations should develop appropriate mechanisms to deal with this specific problem.

Despite its relative advances, the international system for the protection of human rights still leaves much to be desired. Impunity for violators, which in most places on our continent is of dramatic proportions and, in some of them, almost absolute, is the clearest demonstration of the ineffectiveness of United Nations instruments. This impunity manifests itself both in human rights crisis situations and in subsequent reconciliation processes. In the first case, it is made possible by the lack of sufficient Government will to confront those responsible, who are tolerated, if not encouraged, by the authorities themselves. Impunity in reconciliation processes, on the other hand, comes with the assertion of State determination to impede the investigation and punishment of past violations. In both cases, the end result is a terrible paradox in which crimes against humanity are treated as of minor importance. Societies built on this foundation, without trust in the protection of basic rights, tend to become breeding grounds for grave violations.

This is why it is important to set up a criminal court with international jurisdiction, as proposed at this meeting by the International Commission of Jurists. Equally important would be to make the declaration adopted at the latest United Nations General Assembly into a convention. Secret graves should also be declared "international protected areas" or "areas under United Nations supervision".

In addition, the 1503 procedure calls for thoroughgoing revision if it is to become effective. Its absolute confidentiality, the politicization to which it is subject, the lack of appeal procedures and the rigid annual timetable by which it is governed, make it clearly inoperable in most cases. It is worth noting that the extensive attention accorded by the United Nations to human rights violations in Chile 20 years ago was not initially possible under the 1503 procedure, even though the situation there was common knowledge, and was better appraised in the public debate in the Commission on Human Rights.

The case of Chile also shows that United Nations machinery for the protection of human rights is designed to react to dictatorships - sometimes not adequately - rather than to situations of persistent violations of human rights under constitutional regimes. The over-politicization of the debate has prompted many States to neutralize the possibility of analysis of ostensibly grave situations. One way of depoliticizing such discussions which

has been adopted in recent years is through advisory services set up by the Commission on Human Rights and mandated to report to it. However, in the three countries where this approach has been adopted (Equatorial Guinea, Haiti and Guatemala), there has been no appreciable improvement in the human rights situation. Perhaps they called for treatment other than the appointment of an adviser. United Nations mechanisms have not been sufficiently coherent in this regard, or in the use of the Commission's advisory services to improve serious situations in other countries where this approach might have been appropriate. Advisory services should be reviewed and strengthened to make them more effective and useful in those cases for which they were specifically designed.

States of emergency give rise to situations which lend themselves particularly to violations of human rights. The appointment of a special rapporteur on this question by the Commission in 1985 was an important step towards preventing such violations. However, his limited mandate and the meagre resources allocated to him are grossly inadequate for such an important task. One of the United Nations' clearest priorities, and one of the most necessary for many peoples of the world, is to strengthen this function.

Violations of human rights frequently take place in the context of internal armed conflicts. As the experience of El Salvador shows, the United Nations has an important role to play as guarantor of the observance of international humanitarian law, and as mediator in the conclusion and monitoring of agreements intended to bring hostilities to an end. Refining these mechanisms and extending their scope is one of the objectives established as early as the Tehran Conference and one which can be taken up at the forthcoming Vienna Conference.

There is at present a growing economic interdependence among countries. Any discussion of the effectiveness of the mechanisms of instruments must take account of the impact of the real power of first world countries and transnational institutions and corporations to affect the observance of economic, social and cultural rights and the right of peoples to development.

Clearly, the effectiveness of the campaign to eliminate the various forms of impunity existing in our societies, which include acts or omissions on the part of States and other entities such as international financial agencies and transnational corporations, depends in part on the effectiveness of international implementation procedures and methods. For this reason, we suggest that the United Nations should appoint a special rapporteur to investigate and make recommendations on the impact of policies and decisions of international financial institutions and multinational corporations. In addition, instruments and mechanisms should be set up to enable individuals or NGOs to report the acts of international financial institutions.

With regard to the question of development and the international economic order, it is essential to ensure observance of the principle of self-determination and the sovereignty of peoples. The imposition of financial, trade and economic sanctions is an infringement of the rights of peoples and leads to situations in which economic, social and cultural rights

are systematically violated. The United Nations should develop mechanisms for the effective implementation of the major resolution on this question adopted at the latest General Assembly.

For the observance of economic, social and cultural rights, the suggestions of the Special Rapporteur, Mr. Danilo Turk, must be taken into account. In this connection, the drafting and adoption of an Optional Protocol is essential to make up for the inadequacy of the mechanisms of the International Covenant on Economic, Social and Cultural Rights.

The women attending the satellite conference consider the Universal Declaration of Human Rights adopted by the United Nations in 1948 to be a step forward for mankind. We now see that, in essence, the Declaration embodies a limited conception of human rights, in that the general wording fails to recognize and overlooks the legitimate aspirations of women and other groups subjected to discrimination.

It must be recognized that the campaign for human rights and democratization of our society has been, and continues to be, waged by new protagonists, including the women's movement which demands the inclusion of diversity as a basic condition for developing the universality of human rights.

The setting up of sustainable peacemaking procedures calls for the adoption of measures to deal with structural violence against women, so as to guarantee the right to a life free of violence. This means recognizing violence as the most serious source of discrimination against women.

In order to overcome the bias in current thinking, the concept of gender must be taken into account in all international instruments for the protection of human rights, not only in the substantive definitions, but also in procedures.

For now, we wish to make three suggestions on this topic:

1. The United Nations should urge countries which have not yet done so to ratify the Convention on the Elimination of All Forms of Discrimination against Women and mechanisms should be recommended for the review and elimination of State reservations which have become obstacles to the effective implementation of the Convention;

2. The United Nations should declare sex-based violence to be a violation of human rights by adopting the declaration on violence against women which is currently the subject of consultations;

3. The United Nations should appoint special rapporteurs on economic, social and cultural rights to monitor the impact of economic policies, particularly structural adjustment programmes, on the living conditions of women.

Improvement of mechanisms for the protection of the rights of women, economic, social and cultural rights and civil and political rights, as well

as those relating to the environment, should be the main concern of the Vienna Conference. We trust that the full participation of human rights NGOs will be guaranteed and expanded at the Conference.

B. Agenda item 8 of the Regional Meeting for Latin America and the Caribbean

The following proposal was endorsed by the following non-governmental organizations:

International Federation of Human Rights, Comité de Derechos Humanos de Honduras, Comisión Mejicana de Defensa y Promoción de Derechos Humanos, Centro Nicaraguense de Derechos Humanos, Comisión de Derechos Humanos de Guatemala, Unidad Nacional de los Trabajadores Salvadoreños, Instituto de Defensa Legal del Perú, Andean Commission of Jurists, Comisión Episcopal de Acción Social, "France Liberté" Foundation, Centro de Estudios y de Acción por la Paz, Comisión de Derechos Humanos-Perú, Comisión de Justicia y Paz de São Paulo, Instituto Brasileiro de Analises Sociais e Económicas, Centro Luiz Freire, CODEHUCA, American Association of Jurists, Abuelas de Plaza de Mayo, CELS, SERPAJ de América Latina, Familiares de Detenidos y Desaparecidos por Razones Políticas, Liga Argentina por los Derechos del Hombre, Madres de Plaza de Mayo-Línea Fundadora.

Obstacles to the full realization of human rights

1. Absence of democracy and presence of militarism

Constitutional and democratically elected regimes returned in the 1980s, but, despite this positive step forward, it has not been possible to eliminate the social, political and economic structures that hamper the full realization of human rights.

Popular participation cannot be limited to the periodic exercise of the right to vote in order to elect authorities or representatives. It must also involve full control by citizens of the actions of the authorities, representatives and public officials, as well as active participation in the formulation and adoption of major political decisions.

The armed forces must be subordinate to the democratic authorities and their members must therefore be trained in democratic principles and practices.

The credibility of the democratic system has been weakened by the survival of authoritarian conduct and unfulfilled aspirations.

The repeated use of states of emergency weakens democratic institutions. It is necessary to guarantee that habeas corpus and other similar remedies for the protection of the fundamental rights of citizens remain in force even in such circumstances.

2. Economic policies of structural adjustment

The adoption of economic policies of structural adjustment and free market forces is hampering the realization of the population's economic and social rights. The indivisibility of human rights is affected by the imposition of economic models that make the satisfaction of the population's basic needs subordinate to what is said to be economic growth.

3. Administration of justice, impunity and corruption

The lack of independence, politicization, corruption and insensitivity to major social problems have seriously undermined the legitimacy and credibility of the machinery for the administration of justice.

The judiciary's scant identification with respect for human rights encourages violations and impunity. There is no willingness to punish the persons responsible.

The misuse of remedies such as amnesty and pardon and "clean slate laws" allow those who violate human rights to go unpunished. Provision should be made for the non-applicability of statutory limitations to persons guilty of crimes against humanity and for their universal prosecution.

Widespread corruption in democratic institutions and structures affects the economic and social development of our peoples.

4. Politicization of regional and universal human rights bodies

The lack of criteria for the appointment and selection of most independent experts, who usually come from their countries' Ministries of Foreign Affairs, shows that they have little independence in respect of the mandate entrusted to them by both systems for the protection of human rights.

The lack of coercive machinery to punish States responsible for human rights violations hampers the protection of human rights. The adoption by the international community of sanctions against a particular State cannot be regarded as unlawful interference, provided that it takes place through the competent bodies and in accordance with regular procedures that are not subject to politicization and manipulation. However, military, political or economic intervention imposed unilaterally by one or more States against others is unlawful interference.

5. Terrorism, drug trafficking and internal armed conflicts

Terrorism is a reprehensible practice that is clearly contrary to respect for human rights, whether it is engaged in by criminal groups beyond State control or by States themselves. Its characterization may not be applied indiscriminately to political offences and still less to the legitimate right of peoples to protest against authoritarian action that is contrary to their fundamental rights.

Drug trafficking as an international crime which takes many forms must be dealt with at the production, trafficking, financing and large-scale distribution stages by means of the appropriate legal machinery and support systems for the alternative development of the communities concerned, without any militarization of society or intervention by foreign military forces.

In the case of armed conflicts, United Nations intervention must be a guarantee of respect for human rights and international humanitarian law and an effective means of consolidating processes of peace based on the sound administration of justice.

C. Agenda item 9 of the Regional Meeting for Latin America and the Caribbean

The following proposal was endorsed by the following non-governmental organizations:

Capacitación Social, American Asssociation of Jurists, Guyana Human Rights Association, Justicia y Paz (Panama), MST de Brasil, CRIES, Asamblea de Derechos Humanos, CODEHUCA, World Conference on Religion and Peace, Coordinación de Mujeres Luteranas, Servicio Paz y Justicia/A.L., OSPAAAL, Consejo de Igleslas Evangélicas, Instituto de Estudios Jurídicos de El Salvador (IEJES), Asociación por la Dignidad y la Vida, Fundación Ayuda Social Iglesia Cristiana (FASIC), Instituto Brasileiro de Análises Socias y Económicas, Iglesia Católica Justicia y Paz, Movimento dos Trabalhadores de Rurais sem Terra, Asamblea Permanente de Derechos Humanos de Bolivia, Women's International League for Peace and Freedom, Centro de Estudios Legales y Sociales, Familiares de Detenidos y Desaparecidos por Razones Políticas, Madres de Plaza de Mayo-Línea Fundadora, Abuelas de Plaza de Mayo, LADH, Comissão Justiça e Paz de São Paulo, CODEFAM, FEDEFAM, Centro Luis Freire, Asociación Latinoamericana de Derechos Humanos (ALDHU), Vicaría de la Solidaridad, Asociación Ecologista Costarricense, Defensa Internacional del Niño, Alianza de Mujeres Costarricenses, Agencia Latinoamericana de Información.

Considering that the relationship between development, democracy and human rights is unconditional and that a model of equitable, balanced and sustainable development is based on the full enjoyment of human rights, particularly economic, social and cultural rights, the non-governmental organizations which are members of the thematic group on agenda item 9 of the Regional Meeting for Latin America and the Caribbean of the World Conference on Human Rights stress:

1. That guarantees of the functioning of a substantive democracy depend on:

1.1. The strengthening of democratic institutions so that they may play the role for which they were established;

1.2. The independence of the different branches of government, particularly in order to ensure the objectivity, impartiality and independence of the judiciary;

1.3. The establishment of channels and mechanisms to guarantee the direct and indirect participation of civilian society, especially organizations of women, minorities, ethnic groups and other sectors discriminated against, in the adoption of decisions affecting society as a whole;

1.4. Respect for diversity and pluralism;

1.5. Socio-economic justice to eliminate all types of relationships of subordination and exploitation.

2. Respect for the self-determination of peoples and nations based on the principle of the sovereign equality of all States, including the right of all peoples to choose their own development model. The international community must undertake to guarantee respect for this principle and offer its solidarity so that peoples which have been prevented by their Governments from exercising their right to self-determination may do so.

3. The above-mentioned basic principles are being violated by the neoliberal models and resulting adjustment plans which are being implemented in our countries and which reduce the populations's quality of life and lead to unemployment, greater marginality, the concentration of wealth and the deterioration of the environment.

The use by international organizations of the term "basic rights" in referring to the peoples of the South also limits the access of these peoples exclusively to these rights.

4. We propose that the international system should:

4.1. Establish mechanisms to evaluate, measure and follow up the implementation by States of human rights, particularly economic, social and cultural rights;

4.2. Guarantee equal participation by States in international financial institutions and establish measuring, evaluation and follow-up mechanisms to monitor fulfilment of the obligations contained in international instruments relating to economic and social rights.

5. In view of violations of economic, social and cultural rights, which cannot be given up, the international community should propose:

5.1. That the 1993 World Conference on Human Rights should adopt a resolution declaring that the policies and practices of States and institutions which violate the right to development and economic, social and cultural rights are international crimes;

5.2. The drafting and adoption of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;

5.3. That the Economic and Social Council should ask the International Court of Justice for an advisory opinion on:

(a) Whether agreements and relations between the United Nations and the International Monetary Fund and the World Bank as specialized agencies are in keeping with the Charter of the United Nations;

(b) Whether the practices and policies of the World Bank and the IMF are in keeping with the purposes for which they were established, the Charter of the United Nations and other international instruments.

D. Agenda item 10 of the Regional Meeting for Latin America and the Caribbean

The following recommendation was endorsed by the following non-governmental organizations:

Instituto Brasileiro de Analises Socialis e Económicas - IBASE, Comité Latinoamericano para la Defensa de las Mujeres en Honduras CIADEM-H, Organización Mundial de las personas Impedidas OMPI, Centro de Estudios Ambientales de Argentina CEDEA, Consultoría para los Derechos Humanos y el Desplazamiento CODHES-COLOMBIA, Human Rights Internet, Centro de Investigación, Estudio y Promoción de Cuatemala CIEPRODH, Federación de Mujeres Cubanas FMC, Women's International League for Peace and Freedom LIMPAL-WILPF, Comité Diocesano de Ayuda a Inmigrantes Fronterizos/ Chiapas-México CODAIF, Comité Latinoamericano para la Defensa de los Derechos de las Mujeres CLADEM, Coordinación ONG del Area de Mujer en República Dominicana, Equipo Argentino de Antropología Forense, Comisión Costarricense de Derechos Humanos CODEHU, Defensa de los Niños International Section/Costa Rica, Centro de Salud mental y Derechos Humanos de Chile, International Organization for the Elimination of All Forms of Racial Discrimination EAFORD-ECOSOC, Vicaría de Solidaridad de Ayaviri-Perú, Alianza de Mujeres Costarricenses.

Considering that, in accordance with the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Civil and Political and on Economic, Social and Cultural Rights and various United Nations conventions and instruments, such as the Convention on the Elimination of All Forms of Discrimination against Women and the Principles for Older Persons, and in view of the contemporary trend towards the widening and deepening of the gap between rich and poor countries, ways must be found of giving effect to the purposes and principles agreed on by our countries,

Considering the trends which are taking shape on the continent with regard to the indivisibility of human rights, with equal coverage for all rights, as well as the recognition of social partners who were absent until now and disregarded in the exercise of human rights,

Considering that the structural changes suffered by the economies of the countries of the region have deprived a large number of men and women of opportunities for the enjoyment of human rights,

Considering that the environment must be expressly accepted as an indivisible and interdependent right on the same basis as other rights, since environmental assets, costs, damage and risks are unequally divided among countries and among the different sectors of society,

Considering that the structural violence constantly exercised against the lives and bodies of women and the patriarchal nature of society as an element which strengthens inequalities between the sexes call for a new conceptualization of human rights which does not discriminate on the grounds of sex, tends to be of a comprehensive nature and advocates equality based on respect for differences, diversity and plurality,

Considering that the disabled population has no body or instrument which directly protects the human rights of persons with disabilities and that it has not been possible to incorporate such persons in economic, social and cultural life despite the efforts made,

Considering that internally displaced persons are a genuinely vulnerable group because of the lack of protection for a population violently displaced within a country as a result of the absence of international mechanisms and bodies, which is now limiting their humanitarian and legal action, even with regard to the problems of refugees which are similar to the special problems of refugees not officially recognized as such,

We propose that our democracies should be improved through mechanisms for participation in decision-making by the people and by the groups and sectors concerned;

We propose greater justice as a result of structural changes in the economies of the region by protecting deprived sectors affected by the economic models and policies of structural adjustment;

We propose that the environment should be expressly accepted as indivisible and interdependent on the same basis as other human rights and that particular emphasis should be placed on the protection of affected groups by imposing justice in the distribution of environmental assets, costs, damage and risks between countries and the different social sectors;

We propose that the term "vulnerable groups" should not be applied to women, the disabled, displaced persons, refugees, migrant workers, the homeless, persons who are HIV-positive and other groups that are marginalized and discriminated against, since their situation is the result not of the fact that they are less capable, but of the marginalization and the oppression to which they are subjected;

We propose a new conceptualization of human rights which includes the specific characteristics of women and focuses comprehensively on violence against women in public and in private;

We propose effective measures, international instruments and a permanent special rapporteur for the support, protection and promotion of the human rights of disabled persons;

We propose a specific declaration condemning all forms of multi-discrimination based on sex, race, ethnic group, religion, social or cultural group, occupied territories, sexual preference, etc.;

We propose specific recognition of internally displaced persons and accelerated procedures for their protection.

E. Agenda item 11 of the Regional Meeting for Latin America and the Caribbean

The following proposal was endorsed by the following non-governmental organizations:

Lawyers' Committee for Human Rights, Socorro Jurídico Cristiano de El Salvador, Departamento de Derechos Humanos de la Iglesia Luterana de El Salvador, Tutela Legal del Arzobispado del Salvador, Instituto de Derechos Humanos del Salvador, Instituto de Estudios Jurídicos y Sociales de la Mujer de Argentina, Comisión para la Defensa de los Derechos Humanos de Centroamérica, Comité Latinoamericano para la Defensa de los Derechos de la Mujer - Sección Costa Rica, American Association of Jurists.

1. Introduction

Those States which have not yet ratified all regional and international covenants and conventions on human rights are urged to do so.

2. The rights of the disabled

2.1. The World Conference on Human Rights should establish the necessary conditions for the elaboration of a convention on the rights of the disabled.

2.2 It should envisage the appointment, within the United Nations system, of a special rapporteur who would:

(a) Advise on and coordinate national and international policies to protect the human rights of disabled persons;

(b) Supervise the implementation and protection of the human rights of disabled persons.

3. The functioning of an international human rights court

3.1. Victims of violations of human rights protected by international law should be considered as fully-fledged subjects of international human rights law. Consequently, international law must develop and evolve in such a way as to permit the direct participation of individuals (victims, family members or their representatives) in international protection procedures, especially judicial procedures.

3.2. The United Nations should promote the establishment of an international criminal court for human rights. The establishment, structure, composition, competence and jurisdiction of such a court must be the result of

a broad consensus among the international community based on the principle of the legal equality of all States, as enshrined in Article 2 of the Charter of the United Nations.

4. Enforced or involuntary disappearances

The draft inter-American convention on enforced or involuntary disappearances which is being examined in the Organization of American States should reproduce the content of the international declaration on the same subject adopted by the United Nations General Assembly in December 1992, and should not constitute a step back from the latter.

5. The status of women

5.1. We call upon all government delegations to support specific resolutions on the particular circumstances of women so that they are not once again excluded from general declarations which tend to obscure specific violations of women's human rights, when women constitute half the population in this region and in the world.

5.2. The Regional Meeting for Latin America and the Caribbean should take full account of the analysis and strategies on women's human rights produced by the satellite Conference for Latin America and the Caribbean on human rights held in San José, Costa Rica, from 3 to 5 December 1992.

5.3. Each country should incorporate the gender perspective in all reports prepared for the World Conference on the status of human rights in their countries. The United Nations should include the gender perspective in all programmes, levels, texts, mechanisms and activities in general of the universal system of human rights. We understand by gender perspective a view of reality which brings relations between men and women into the open and sheds light on the causes and effects of the various forms of subordination and discrimination experienced by women.

5.4. The United Nations should appoint a thematic rapporteur on gender-based violence to investigate, inform and report on the extent and effects of violence against women in all Member States.

5.5. The United Nations should consider violence against women as a serious violation of human rights, which requires the adoption of immediate measures.

5.6. The United Nations should consider the necessity for an Optional Protocol which would permit women and NGOs to submit complaints to the Committee on the Elimination of Discrimination against Women (CEDAW) concerning acts of discrimination against women.

5.7. Consideration should be given, in the draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights currently under study, to the creation of effective mechanisms to permit complaints and investigations regarding violations of these rights in relation to women.

5.8. Women's rights with regard to reproduction should be recognized as human rights and programmes should be recommended aimed at safeguarding those rights.

6. Functional infrastructure of human rights mechanisms

6.1. It is essential and urgent to bring about a really substantial increase in the financial and human resources of the United Nations Centre for Human Rights.

6.2. A central computerized database should be established for the Centre for Human Rights, not only to facilitate the work of the organs responsible for monitoring the human rights covenants, but also that of all bodies and persons responsible for mandates (mechanisms, themes) of the Commission on Human Rights at various stages, from the gathering of information to the follow-up of cases and situations.

7. Follow-up

7.1. When the thematic mechanism concerned has approached a Government regarding a significant number of individual cases, or when the situation in the country constitutes a systematic pattern of violations and the Government persistently declines to reply to communications or to authorize visits in loco, the mechanisms should transmit the complete file to the Commission on Human Rights for appropriate action.

7.2. The mechanisms should establish uniform criteria on what constitutes a full and satisfactory reply by a Government. Replies should include copies of the results of official investigations, copies of autopsies and other medical reports, and copies of judicial proceedings and judgements. Cases should be kept open until Governments supply satisfactory replies in accordance with the applicable criteria.

7.3. The thematic mechanisms should be empowered to act in the event of receiving reliable information on situations involving violations of the rights of large numbers of people even though no individual cases are referred to them. A summary of the complaints should be transmitted to the Government for its reply, and both the summary and the reply should be published in the annual reports to the Commission. It may also be appropriate to request authorization to make a visit in loco in such circumstances.

8. Coordination of activities concerning human rights

Permanent and more efficient forms of communication should be established between the mechanisms responsible for monitoring the Covenants and the thematic mechanisms. In particular, coordination between bodies based in Vienna (CEDAW and the Commission on Crime Prevention and Criminal Justice) and those based in Geneva should be improved.

9. Advisory services and technical assistance

9.1. The programmes of advisory services and technical assistance should be developed and implemented with the participation of NGOs. Moreover, NGOs should have the right to attend courses given by specialists and experts.

9.2. An Administrative Board of the Voluntary Fund for Advisory Services and Technical Assistance should be established. This Board should be responsible for fund management and for examining carefully each of the situations and projects to determine priorities based on the urgency and expected effectiveness of each project. NGOs should be granted some form of participation in this Administrative Board.

9.3. Advisory activities should be clearly differentiated from investigations into violations of human rights.

10. Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

The elaboration and subsequent approval of an Optional Protocol to the above-mentioned Covenant, currently under examination, should be addressed.

11. General principles: objectivity, impartiality and non-selectivity

Objectivity, impartiality and non-selectivity should be the fundamental principles guiding the work of United Nations bodies concerned with human rights.

12. Reforms of the Security Council and other bodies in the United Nations system

12.1. Certain reforms are required in some United Nations bodies so that the Organization can fulfil its mandate to preserve peace and promote human welfare, both of which are fundamental human rights. The present structure of the Security Council is a product of the cold war and thus obsolete.

12.2. The number of members of the Security Council should be increased in proportion to the present number of Members of the United Nations. At the same time, the right of veto should be abolished and, if the status of permanent member is retained, the number of such members should be increased, with such status being granted to countries with great economic and/or demographic potential and account being taken of regional representation.

12.3. The involvement of the Economic and Social Council in world economic and financial affairs should be strengthened, the decision-taking machinery of the International Monetary Fund (IMF) and the World Bank should be made more democratic and their functioning should be made to reflect the fact that they are specialized agencies of the United Nations system.

Annex II

DECLARATIONS SUBMITTED BY TWO GROUPS OF NON-GOVERNMENTAL ORGANIZATIONS PRESENT IN SAN JOSE

A. Declaration on the status of women

The following declaration was endorsed by the following non-governmental organizations:

Comité Latinoamericano para la Defensa de los Derechos de la Mujer, ILSA - Colombia, Instituto Brasileiro de Análises Sociais e Económicas, Centro Luiz Freire, Asociación Latinoamericana de Información, Andean Commission of Jurists, Seccional Colombiana, Comité de Defensa de los Derechos del Pueblo, Comisión de Justicia y Paz de São Paulo, Unión de Juristas de Cuba, Movimiento por la Identidad de las Mujeres Negras, Mujeres por la Democracía, Federación de Mujeres Cubanas, CEMUJER, Movimiento Manuela Ramos, Colectivo de Abogados José Alvear Restrepo, Asociación de Familiares de Detenidos-Desaparecidos de Colombia, Comité Nacional Independiente Pro Defensa de Presos, Perseguidos, Desaparecidos y Exiliados Políticos de México, Comisión de Derechos Humanos de Centroamérica (CODEHUCA), Abuelas de Plaza de Mayo, Centro de Estudios Legales y Sociales (CELS), Familiares de Detenidos y Desaparecidos por Razones Políticas, Liga Argentina por los Derechos del Hombre, Madres de Plaza de Mayo - Línea Fundadora, Servicio, Paz y Justicia (SERPAJ) de América Latina.

Introduction

The following points are part of the final document produced by the delegates of Latin America and the Caribbean to the "La Nuestra" satellite meeting held in San José, Costa Rica, from 3 to 5 December 1992.

The objectives of the World Conference on Human Rights, Vienna, 1993, include a review of United Nations human rights programmes and ways to improve them and to define the role of the Organization in achieving world peace. For women, these proposals cannot be achieved without reviewing and rethinking the approaches and concepts on which the universal system is based.

In order to recognize women's human rights, it is necessary to take account of the diversity of women - their different ages, ethnic/racial background, religion, socio-economic conditions, disabilities, sexual preferences, geographical location and marital status.

Until women have the right to a life free of violence, and until the necessary measures to solve the problem of structural violence against women are adopted, no progress can be made towards building up sustainable peace processes.

Only by incorporating a gender perspective in the theory and practice of human rights will these rights meet the expectations of humanity as a whole.

Requests

The women of Latin America and the Caribbean present, representing more than 50 women's organizations in the region, request the Regional Meeting to adopt the following as part of its declaration and resolutions:

1. Specific resolutions on women, so that women are not once more marginalized from general declarations which generally obscure particular violations of women's human rights, when women constitute half the population in the region and the world.

2. The United Nations should include the gender perspective in all programmes, levels, texts, mechanisms and activities generally in the universal system of human rights.

3. The United Nations should urge countries which have not yet done so to ratify the Convention on the Elimination of All Forms of Discrimination against Women. It should also recommend mechanisms to examine and eliminate reservations formulated by States, since these have become obstacles to the effective application of the Convention.

4. The United Nations should declare violence against women to be a violation of human rights, promptly adopt the "draft declaration on violence against women", and encourage the consideration of a convention to punish, prevent and eradicate violence against women, which recognizes women's right to live free of violence, which establishes the obligation of States to prevent and punish it, even when inflicted by private individuals, and which contains effective mechanisms to establish international responsibility in this area.

5. The United Nations should appoint a thematic rapporteur on gender violence to investigate, inform and report on the extent and effects of violence against women in all Member States.

6. The United Nations should guarantee the existence of international mechanisms to receive communications and complaints and take urgent measures in respect of violations of women's human rights.

7. The United Nations should consider the need for an Optional Protocol allowing women and NGOs to submit complaints to the Committee on the Elimination of Discrimination against Women (CEDAW) concerning acts of discrimination against women.

8. Consideration should be given, in the draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, currently under study, to the creation of effective mechanisms to allow complaints and investigations regarding violations of such rights in relation to women.

9. New human rights should be recognized concerning human reproduction, so that motherhood, for every woman, results from a free and conscious decision. Genetic experimentation should also be considered a violation of women's human rights unless there are adequate social monitoring mechanisms in which women are represented.

10. It should be recommended to the World Conference to adopt a convention on the rights of disabled persons and to appoint a special rapporteur to ensure respect for and application of their human rights.

11. In 1993, the International Year for the World's Indigenous People, the United Nations should take account of the needs and particular characteristics of indigenous women, as expressed by them in their various declarations and petitions.

12. Positive action should be promoted to recognize the right to identity, self-determination, language and territory, inter alia, of black women and all groups discriminated against on ethnic or cultural grounds.

13. The United Nations should discuss the serious situation created by the traffic in women and the various forms of sexual exploitation affecting women. New international instruments should include a draft convention against all forms of sexual exploitation which should be prepared by international experts in conjunction with the Coalition against Trafficking in Women.

14. The United Nations should broaden the definition of refugee to include displaced persons who have been obliged to abandon their homes and economic activities because their life, security or liberty has been threatened by widespread violence or prevailing conflict, whether on economic, political, religious, ethnic or racial, or gender-based grounds, and including domestic violence and natural disasters.

15. Finally, we wish to state that recognition of women's human rights must be a starting-point for any attempt to progress in reformulating and rethinking human rights as an expression of human diversity, equity and pluralism.

B. Declaration on indigenous peoples

The following declaration was endorsed by the following non-governmental organizations:

Consejo de Organizaciones Mayas de Guatemala, Consejo de Comunidades Etnicas Runujel Junam (Guatemala), Familiares de Detenidos - Desaparecidos de Guatemala, Asociación Sejekto (Costa Rica), Consejo Nacional Jamrojo (Costa Rica), Nabquana Kuna (Panama), Asesoría Legal Guaymí (Panama), Organización Nacional Indígena de Colombia, Confederación de las Nacionalidades Indígenas del Ecuador, Comisión Jurídica de los Pueblos de Integración Tawantisuyana (Peru), Consejo Indio Sud-América (Peru), Consejo Nacional Indio (Venezuela), Asociación Nacional Indígena Salvadoreña, Comisión de Justicia y Paz de São Paulo, Instituto Brasileiro de Análises Sociais e Económicas, Centro Luiz Freire, Abuelas de Plaza de Mayo, Centro de Estudios Legales y Sociales (CELS), Familiares de Detenidos y Desaparecidos por Razones Políticas, Liga Argentina por los Derechos del Hombre, Servicio, Paz y Justicia (SERPAJ) (América Latina), Madres de Plaza de Mayo - Línea Fundadora, Comisión para la Defensa de los Derechos Humanos en Centroamérica, American Association of Jurists.

Introduction

Since the cultural identity of our peoples is part of the reality of the continent, it is essential to take into consideration that we are more than 50 million indigenous people speaking 600 living languages.

For five centuries we have suffered racial discrimination and economic, social, political and cultural exploitation. Despite genocide and systematic and structural violation of our human rights, we have survived, weaving a story of struggle for life, the basic rights of all human beings in general and the rights of the inhabitants of this continent of the sun in particular, as the heirs to ancient cultures which have contributed so much to humanity.

We recall the resolutions of the United Nations and its subsidiary organs, such as Economic and Social Council resolution 1982/34 of 7 May 1982 authorizing the Sub-Commission on Prevention of Discrimination and Protection of Minorities to establish annually a Working Group on Indigenous Populations with a view to strengthening international cooperation in solving problems faced by indigenous communities in areas such as human rights, the environment, development, education, and health.

In the American region, we have taken note of the declaration of Heads of State and Government at the Guadalajara Summit, Mexico, which states in its paragraph 8: "We recognize the immense contribution of indigenous peoples to the development and diversity of our societies and reiterate our commitment to their economic and social welfare and the obligation to respect their rights and cultural identity". We are also interested to note the decision of the General Assembly of the Organization of American States (OAS) in its resolution 1022 (21-89) requesting the Inter-American Commission on Human Rights to prepare a legal instrument relating to the rights of indigenous peoples.

Despite the decisions described above, our peoples continue to be subjected to persistent violations of the right to life through disappearances, killings and persecution inflicted by terrorists in Guatemala, Peru and Bolivia; disregard for our right to self-determination through imposition of divisive frontiers in almost all American countries; repressive military occupation of our territories in all countries of the region; the slow pace of constitutional and legal change; and the lack of formal recognition of our rights to autonomy, land and culture in countries such as Ecuador, Peru, Guatemala and Panama.

Requests

The above-mentioned reasons and the persistence of the violations summarized above have led us to participate in this event in order to obtain from the Governments of the region specific indications that they will attend to our requests and ensure our human rights, and to that end we ask that the conclusions of the meeting should reflect the following proposals:

1. All American countries should ratify ILO Convention No. 169 of 1989, as has been done by Mexico (5 September 1990), Colombia (20 March 1991), Bolivia (11 December 1991), Costa Rica (12 December 1992) and Norway (19 June 1990).

2. We should be allowed to speak and vote in all international deliberations; and support should be given to the prompt adoption of the universal declaration of the rights of indigenous peoples which is currently being prepared by the United Nations Working Group on Indigenous Populations.

3. An Office of United Nations High Commissioner for Indigenous Affairs should be created as a permanent agency for the implementation of our rights, with participation by indigenous delegates.

4. Indigenous peoples should be involved in the planning, execution and follow-up of the International Year in all regional and world bodies, as well as in other events from which we have traditionally been excluded.

5. We demand that our rights should be incorporated as a matter of priority in the constitution and laws of all countries, as progressive and non-restrictive rights; and we join the general appeal to all Governments in the region to ratify all international conventions on human rights, non-ratification being detrimental to the security of all inhabitants of the region.

6. We ask the World Conference on Human Rights to include in its agenda an item devoted exclusively to indigenous peoples, since we are not minorities but vulnerable sectors.

San José, Costa Rica, 19 January 1993

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